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FILED

AUG 17 2012

DEPARTMENT OF REAL ESTATE
BY: C

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) DRE No. H-37728 LA
12) OAH No. L-2012070708
13 JUAN DEMECIO JIMENEZ,)
14 ARMANDO MEMBRENO,) SECOND AMENDED ACCUSATION
15 GUSTAVO VARGAS,)
16 SALLY SAMARIS,)
17 NINO VERA,)
18 CARLOS TORRES ALMAGUER, and)
19 HECTOR MANUEL PENA,)
20 Respondents.)

21 This Second Amended Accusation amends the First Amended Accusation filed on
22 January 31, 2012. The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the
23 State of California, for cause of Second Amended Accusation against ARMANDO
24 MEMBRENO, GUSTAVO VARGAS, and SALLY SAMARIS (collectively "Respondents"), is
25 informed and alleges as follows:

26 1.

27 The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State
28 of California, makes this Accusation in her official capacity.

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1 2.

2 Respondents are presently licensed and/or have license rights under the Real
3 Estate Law (Part 1 of Division 4 of the California Business and Professions Code, "Code").

4 LICENSES

5 3.

6 From January 27, 2007, through January 26, 2011, Respondent ARMANDO
7 MEMBRENO ("MEMBRENO") was licensed by the Department as a real estate salesperson,
8 Department ID 01786106. From September 8, 2008, through September 25, 2009, Respondent
9 MEMBRENO was licensed under broker Universal Executive Group, Inc. From September 26,
10 2009, through January 26, 2011, Respondent MEMBRENO was licensed under broker James
11 Alfred Santana. The Department retains jurisdiction pursuant Code Section 10103.

12 4.

13 From February 18, 1988, through the present, Respondent GUSTAVO VARGAS
14 ("VARGAS") has been licensed by the Department as a real estate salesperson, Department
15 ID 00983190. From June 29, 2007, through November 6, 2008, Respondent VARGAS was
16 licensed under broker Andes Financial Investments, Inc. From November 7, 2008, through May
17 5, 2009, Respondent VARGAS was licensed under broker VIP on 99 Enterprises, Inc. From
18 May 19, 2009, through September 27, 2009, Respondent VARGAS was licensed under broker
19 Sol Funding, Inc. From September 28, 2009, through October 10, 2010, Respondent VARGAS
20 was licensed under broker VIP on 99 Enterprises, Inc.

21 5.

22 From January 10, 2004, through the present, Respondent SALLY SAMARIS
23 ("SAMARIS") has been licensed by the Department as a real estate salesperson, Department
24 ID 01412664. From April 19, 2005, through October 12, 2009, Respondent SAMARIS was
25 licensed under broker New Horizon R E, Inc.

26 6.

27 At no time mentioned herein have DAVID ZEPEDA, SUNSET BEACH TRUST,
28 SB MANAGEMENT, ORACLE VISION, FINANCIAL WELLNESS FOR HOMEOWNERS

1 OF LOS ANGELES, FWHLA, FWHLA.ORG., HOME PROTECTION GROUP, JESUS
2 EMANUEL JUAN LIM aka Jesus Lim and Jess Lim, RENE WILFREDO SOLIS aka Rene
3 Solis, TONY HASCHKE, CESAR LEON aka Cesar De Leon, TWIN BUILDERS
4 FOUNDATION CORPORATION, SOLIS REALTY, INC., SERVICE SOLUTION, INC.,
5 RAYMUNDO ROJAS, JOSE ALBERTO BANCES GONZALEZ, JOSE LUIS AGUILAR,
6 JUAN A. LAZARO, MARCELO RAMOS, FRANKLIN D. MARQUEZ, EMILY S.
7 VASQUEZ, ALEX CANJURRA, LUCY DELGADO, FLAVIO HUMBERTO LOPEZ,
8 NORTHERN BLUE MASTERS, INC., GLOBAL CREDIT MASTERS, INC., PRINCIPAL
9 HOME SERVICES, INC., THE SECOND CHANCE CONSULTING, INC., OCTAVIO
10 PONCE, JUANA CHAVEZ BOLANOS and AVANTGARDE HORIZON, INC. ever been
11 licensed by the Department in any capacity.

12 STATEMENT OF FACTS

13 7.

14 All further references to "Respondents" include the parties listed in Paragraphs 3
15 through 5, above, as well as the officers, agents and employees of the parties listed in
16 Paragraph 6, above. Respondents engaged in the activities set forth below while doing business
17 under various fictitious business names including, but not limited to, those included in
18 Paragraph 6, above.

19 8.

20 At all times herein mentioned, in the State of California, Respondents, while
21 using their own names or other fictitious business names, engaged in the business of a real estate
22 broker conducting activities requiring a real estate license within the meaning of Code Sections
23 10131(a) (solicit prospective sellers or purchasers of, or negotiate the purchase, sale or exchange
24 of real property), 10131(b) (rent or solicit for prospective tenants, negotiate the sale, purchase or
25 exchanges of leases on real property, or collect rent from real property), 10131(d) (solicit
26 borrowers for or negotiate loans or perform services for borrowers in connection with loans
27 secured by liens on real property), 10131(e) (sell, buy, exchange or offer to exchange a real
28 property sales contract, or a promissory note secured directly or collaterally by a lien on real

1 property, and performs services for the holders thereof), and 10131.1(a) (make agreements with
2 the public for the collection of payments or for the performance of services in connection with
3 real property sales contracts or promissory notes secured directly or collaterally by liens on real
4 property).

5 9.

6 For an unknown period of time beginning no later than December, 2008, and
7 continuing through November, 2010, for compensation or in expectation of compensation and
8 for fees often collected in advance, Respondents solicited borrowers by offering to conduct loan
9 negotiations and modifications, foreclosure forbearance, mitigation, or foreclosure consultant
10 services in connection with loans secured by liens on real property, within the meaning of Code
11 Sections 10131 and 10131.1(a).

12 10.

13 For compensation or in expectation of compensation and for fees often collected
14 in advance, Respondents engaged in a plan and scheme wherein Respondents solicited and
15 induced homeowners into signing Powers of Attorney and Quitclaim Deeds to their real
16 properties for DAVID ZEPEDA, SUNSET BEACH TRUST, SB MANAGEMENT, ORACLE
17 VISION, FINANCIAL WELLNESS FOR HOMEOWNERS OF LOS ANGELES, TWIN
18 BUILDERS FOUNDATION CORPORATION, or other unknown individuals, entities, or trusts.
19 Respondents further induced homeowners to stop paying their mortgages and instead pay rents
20 or "caretaker" fees for the real properties directly to Respondents on a monthly basis.

21 Respondents made misrepresentations to homeowners including, but not limited
22 to, that Respondents would stop the foreclosure on the homeowners' properties, that
23 homeowners would obtain more favorable terms, lowered principal or lower payments on their
24 mortgages, that the Respondents would pool the homeowners' monies in order to purchase the
25 notes from the homeowners' lenders and sell the real properties back to the homeowners at a
26 lower cost. Respondents offered to pay commissions for referring other homeowners to join the
27 "caretaker" plan. Respondents failed to complete the services promised to the homeowners.

Several homeowners subsequently lost their properties in foreclosure and were evicted from their homes after joining Respondents' "caretaker" plan.

11.

Approximately 550 homeowners were victimized as a result of Respondents' plan and scheme described in Paragraph 10 above. Said homeowners include, but are not limited to, the following:

	DATE OF TRANSACTION	HOMEOWNER	AGENT(S) INVOLVED	AMOUNT PAID
1	Jan. 7, 2009	Martha A.	Juan Demecio Jimenez	\$6,400
2	Feb. 2009	Milagro and Luis P.	SAMARIS	\$5,100
3	Sept. 2009	Armando S.	SAMARIS and MEMBRENO	\$9,477.20
4	Nov. 2009	Lourdes B.	VARGAS	\$12,596.72
5	Dec. 2009	Raul Z. and Maria C.	VARGAS	\$9,942.48
6	April 2010	Carol R.	SAMARIS, VARGAS, MEMBRENO, and Juan Demecio Jimenez	\$10,000

ADVANCE FEE VIOLATIONS

12.

The conduct, acts and/or omissions of Respondents MEMBRENO, VARGAS, and SAMARIS, as set forth above, in collecting advance fees from prospective buyers or borrowers pursuant to a written fee agreement, which agreement was not submitted to the Department for review prior to use, was in violation of Code Sections 10085 and 10085.5 and Regulation Section 2970, and constitutes grounds for the suspension or revocation of the licenses and license rights of Respondents pursuant to Code Sections 10177(d) and/or 10177(g).

13.

For those transactions described in Paragraph 11, above, that occurred after October 11, 2009, Respondents charged and collected advance fees as compensation for offering

1 to perform loan modification or other form of loan forbearance for said borrowers, in violation of
2 Code Sections 10085.5 and 10085.6

3 14.

4 The conduct, acts and/or omissions of Respondents MEMBRENO, VARGAS,
5 and SAMARIS, as set forth above, in collecting advance fees from prospective borrowers after
6 October 11, 2009, was in violation of Code Sections 10085.5 and 10085.6, and constitutes
7 grounds for the suspension or revocation of the licenses and license rights of Respondents
8 MEMBRENO, VARGAS, and SAMARIS pursuant to Code Sections 10177(d) or 10177(g).

9 SUBSTANTIAL MISREPRESENTATIONS/FRAUD/DISHONEST DEALING

10 15.

11 The conduct, acts and/or omissions of Respondents MEMBRENO, VARGAS,
12 and SAMARIS, as set forth in Paragraphs 8 through 11, above, in making false and/or
13 misleading representations in order to induce borrowers to enter into a loan modification,
14 negotiation or forbearance agreement and in otherwise engaging in fraudulent and dishonest
15 dealing, constitutes cause for the suspension or revocation of the licenses and license rights of
16 Respondents MEMBRENO, VARGAS, and SAMARIS pursuant to Code Sections 10176(a)
17 and/or 10177(j).

18 UNLICENSED ACTIVITY/UNLAWFUL EMPLOYMENT OR COMPENSATION

19 16.

20 The activities described in Paragraphs 8 through 11, above, require a real estate
21 broker license or salesperson license employed and compensated by a real estate broker under
22 Code Sections 10131 and 10132. Respondents MEMBRENO, VARGAS, and SAMARIS,
23 engaged in the activities described in Paragraphs 8 through 11, while using fictitious business
24 names that were not licensed by the Department in any capacity. Respondents MEMBRENO,
25 VARGAS, and SAMARIS violated Code Sections 10130 and 10137 by engaging in activities
26 requiring a real estate broker license without first obtaining a broker license from the Department
27 or conducting said activities under the employment or supervision of their licensed broker.
28

17.

Code Section 10106 provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Department of Real Estate, the Commissioner may request the administrative law judge to direct a licensee found to have committed a violation of this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Second Amended Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and/or license rights of Respondents ARMANDO MEMBRENO, GUSTAVO VARGAS, and SALLY SAMARIS under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code) for the cost of investigation and enforcement as permitted by law, and for such other and further relief as may be proper under other applicable provisions of law.

this 16th day of August, 2012.


MARIA SUAREZ
Deputy Real Estate Commissioner

cc: Armando Membreno
Gustavo Vargas
Berdjouhi Sarlou Harabedian
Sally Samaris
William Livingston, Esq.
Maria Suarez
Sacto.
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